

Regulation of Anguilla: 29/2004

Gazette Dated: 15 October, 2004

INSURANCE ACT (R.S.A. c. I)

INSURANCE REGULATIONS, 2004

Regulations made by the Governor, on the advice of the Commission, under section 20 of the Insurance Act 2004

Interpretation

1. In these Regulations-

“Act” means the Insurance Act 2004

“Commission” has the same meaning as in the Financial Services Commission Act 2003

“licensee” has the same meaning as in the Insurance Act 2004

“\$” means the currency of the United States of America

Application for an insurance licence

2. An application for an insurance licence under section 5 (1) of the Act shall be in the form as set out as follows:

Class ‘A’ Insurer’s licence Schedule 1

Class ‘B’ Insurer’s licence Schedule 2

Insurance Agent’s or Broker’s licence Schedule 3

Insurance Manager’s licence Schedule 4

Information in support of an Application Schedule 5

Fees

3. The payment of fees and late payment penalties for the various insurance licences are prescribed in Schedule 6.

Approval for the issue or transfer of shares and other interests

4. Every licensee seeking the approval of the Commission under section 12 of the Act for the issue, transfer or disposal of shares or other interests shall make an application for such approval in the form set out in Schedule 7.

Approval of Directors

5. Every licensee seeking the approval of the Commission under section 13 of the Act for the appointment of a director or other senior officer shall make an application in the form set out in Schedule 8.

Citation

6. These Regulations may be cited as the Insurance Regulations, 2004.

Made this 15th day of October, 2004

Alan Huckle
GOVERNOR of Anguilla

Schedule 1

(Section 5 (1) of the Act)

APPLICATION FOR A CLASS ‘A’ INSURER’S LICENCE IN ANGUILLA

Notes

Complete all sections giving reasons for non-compliance, if any, and attaching supplementary sheets where appropriate.

Completed forms should be submitted to:-

FINANCIAL SERVICES COMMISSION
P O BOX 1575
THE VALLEY
ANGUILLA
Tel: 1 264 497 5881
Fax: 1 264 497 5872

And be accompanied by a non-refundable Application Fee of US\$500

1. Name or proposed name of applicant.

2. Address of:

- a) Registered Office in Anguilla.....
- b) Principal Office.....
- c) Head Office.....

3. List all names (including any previous names) addresses and nationalities of all beneficial shareholders and ultimate beneficial shareholders, together with the number and class of shares (to be) held directly or on their behalf (large publicly held corporations need only list those beneficial shareholders owning over 25% of their shares).

In those cases where shares are beneficially owned by a corporate body or bodies or the company is part of a group, the chain of connection (group organization chart showing all associated and affiliated companies) to the ultimate beneficial owners must be shown.

4. Name and address of one person resident in Anguilla who is authorized to accept service of process in legal proceedings and notices on behalf of the applicant and who is proposed for approval under section 8(3) of the Act.

5. In the case of external insurers:

a) Branch applicants must provide written confirmation that their head office accepts full responsibility for all policies and contracts issued by the branch and also for all acts, omissions and liabilities of the branch.

b) Where the applicant is a subsidiary company state whether the parent company will provide a guarantee in respect of all policies and contracts issued by the subsidiary and also for all acts, omissions and liabilities of the subsidiary

6. State whether the insurance business being, or proposed to be, transacted is 'general' or 'long term' or both. (As defined in section 1 of the Act)

7. In respect of general domestic business state the applicant's policy regarding availability of funds for prompt settlement of normal claims.

8. In respect of long-term domestic business state the applicant's policy regarding investment of annual premium income.

9. List all insurance agents and insurance brokers, if any, in Anguilla, who have or are to have the applicant's underwriting authority to accept domestic business on its behalf.

10. Provide the latest audited financial statements of the immediate parent, and, if applicable, the consolidated accounts of the group.

11. Attach a written undertaking stating the issued capital of the applicant, if not an external insurer.

12. Provide a list of all directors, officers, managers and administrators showing their respective positions with the insurer; together with each person's curriculum vitae.

13. Attach evidence of the auditor's acceptance of their appointment or their willingness to act.

14. For long-term business please give the name and address of the appointed actuary and attach evidence of their willingness to act.

Schedule 2
(Section 5 (1) of the Act)

APPLICATION FOR A CLASS ‘B’ INSURER’S LICENCE IN ANGUILLA

Notes

Complete all sections giving reasons for non-compliance, if any, and attaching supplementary sheets where appropriate.

Completed forms should be submitted to:-

FINANCIAL SERVICES COMMISSION
P.O.BOX 1575
THE VALLEY
ANGUILLA
Tel: 1 264 497 5881
Fax: 1 264 497 5872

And be accompanied by a non-refundable Application Fee of US\$500

1. Name or proposed name of applicant.

2. Address of:
(a) Registered Office.....
(b) Principal Office.....

3. Address in Anguilla where full business records will be kept.

4. State which class of “B” licence is being applied for. Please refer to section 3 (1) (b) – (f) of the Act.

5. State whether the insurance business being, or proposed to be, transacted is ‘general’ or ‘long-term’ or both. (As defined in section 1 of the Act).

6. List all names (including any previous names) addresses and nationalities of all beneficial shareholders and ultimate beneficial shareholders, together with the number and class of shares (to be) held directly or on their behalf (largely publicly held corporations need only list those beneficial shareholders owning over 25% of their shares).

In those cases where shares are beneficially owned by a corporate body or bodies or the company or the company is part of a group, the chain of connection (group organization chart showing all associated and affiliated companies) to the ultimate beneficial owners must be shown.

7. Provide a list of all directors, managers and officers together with each person's curriculum vitae.

8. If the Applicant is to depend upon agent or service companies for the provision of underwriting, management of financial accounting services, please provide details of such companies including evidence of their agreement to provide such services.

9. If applicable, provide the latest audited financial statements of the applicant and, those of the immediate parent, and the consolidated accounts of the group.

10. Attach a written undertaking stating the issued capital of the applicant.

11. Attach evidence of the auditor's acceptance of their appointment or their willingness to act.

12. Attach evidence of the insurance manager's acceptance of their appointment or their willingness to act.

13. For long-term business please give the name and address of the appointed actuary and attach evidence of their willingness to act.

14. Name and address of one person resident in Anguilla who is authorised to accept service of process in legal proceedings and notices on behalf of the applicant and who is proposed for approval under section 8 (3) of the Act.

15. Have any of the parties connected with this application ever applied, either individually or in conjunction with others, for authority to transact insurance business in any jurisdiction? If so please give details.

16. If applicable, please provide a copy of the licence or registration from the home supervisory authority.

Schedule 3

(Section 5 (1) of the Act)

APPLICATION FOR AN INSURANCE AGENT OR BROKER'S LICENCE IN ANGUILLA

Notes

Complete all sections giving reasons for non-compliance, if any, and attaching supplementary sheets where appropriate.

Completed forms should be submitted to:-

FINANCIAL SERVICES COMMISSION
P O BOX 1575
THE VALLEY
ANGUILLA
Tel: 1 264 497 5881
Fax: 1 264 497 5872

And be accompanied by a non-refundable Application Fee of US\$500

1. Name of applicant:

2. Date on which applicant commenced, or proposes to commence carrying on business in or from within Anguilla.

3. Address of:

(a) Registered Office in Anguilla.....

(b) Principal Office in Anguilla.....

4. If incorporated:

(a) List all names (including any previous names), addresses and nationalities of all shareholders. In those instances where shares are held by a corporate body or bodies the chain of connection to the ultimate owner must be shown.

(b) Attach a curriculum vitae of all directors, managers, and officers.

5. If incorporated, attach the latest annual accounts, including those of each shareholder which is a body corporate holding more than twenty-five percent of the applicant's issued share capital or total voting rights, together with similar accounts for the parent body, if any, of each such body corporate.

6. If not incorporated, state the names, addresses, nationalities and attach the curriculum vitae of the applicant and any person acting as a manager or other officer or partner as the case may be.

7. Attach evidence of the approval from the company or companies for which you act, or propose to act, as agent or as broker.

8. Attach a list of all sub-agents authorized by the applicant to solicit insurance business on its behalf, and of all insurance agents associated with the applicant company.

9. Have any of the parties connected with this application ever applied either individually or in conjunction with others, for authority to transact insurance business? If so please give details.

10. For Brokers only:

Attach evidence of the existence of professional indemnity insurance as may be required under section 9(2) of the Act.

11. For Brokers only:

Attach a business plan.

12. All beneficial owners, directors and controllers of the Applicant should complete and submit with this application Schedule 5 (Information in support of an application).

Dated this day of 2004

Name of applicant

Signature of applicant if an individual

Schedule 4

(Section 5(1) of the Act)

APPLICATION FOR AN INSURANCE MANAGER LICENCENotes

Complete all sections giving reasons for non-compliance, if any, and attaching supplementary sheets where appropriate.

Completed forms should be submitted to:-

FINANCIAL SERVICES COMMISSION
P. O. BOX 1575
THE VALLEY
ANGUILLA
Tel: 1 264 497 5881
Fax: 1 264 497 5872

And be accompanied by a non-refundable Application Fee of US\$500

1. Name of applicant:

2. Date on which applicant proposes to commence carrying on business in or from within Anguilla.

3. Address or registered office in Anguilla and the name of one representative, who is authorized to accept on behalf of the applicant service of process and any notices required to be served on it.

4. If incorporated
 - (a) Attach evidence of proper incorporation and a copy of the memorandum of association and articles of association or other instrument of constitution of the applicant as may be appropriate; or if not yet incorporated, the proposed documentation.

 - (b) List all names (including any previous names), addresses and nationalities of all shareholders and directors. In those instances where shares are held by a corporate body or bodies the chain of connection to the ultimate beneficial owner must be shown.

 - (c) Attach a curriculum vitae of each director and manager of the applicant.

5. If incorporated, attach the annual accounts for the two years preceding the year of application, if applicable, and annual accounts of each shareholder which is a body corporate holding more than twenty-five percent of the applicant's issued share capital or total voting rights, together with similar accounts for the parent body, if any, of each such body corporate.

6. If not incorporated, the names, addresses, nationalities and curriculum vitae of the applicant and any person acting as a manager, or other officer or partner, as the case may be.

7. Attach a list of all insurers for whom the applicant is, or will be, engaged to act as manager or consultant, if known.

8. Attach a business plan. The plan should detail the full insurance manager services that the manager will provide and details of the resources available to the manager to be able to provide these services and the intended physical presence to be undertaken in Anguilla.

9. Have any of the parties connected with the application ever applied, either individually or in conjunction with others, for authority to transact insurance business or business of a financial services nature in any other jurisdiction? If so, please give details.

10. Attach evidence of existing licensing or registration in the home jurisdiction, if applicable.

11. All beneficial owners, directors and controllers of the Applicant should complete and submit with this application Schedule 5 (Information in support of an application).

Application is accordingly hereby made for the licence specified above and it is certified that all the particulars contained in this application and in the documents accompanying it or otherwise furnished in support hereof are true and correct and that any change to the information submitted will be communicated to the Financial Services Commission forthwith.

Dated this day of 2004.

.....
(Name of applicant)

.....

(Signature of applicant if an individual)

OR by its *Director/*Secretary/*or other person duly authorized

.....
Signature

Position

**Delete words, which are not applicable*

Schedule 5

**INFORMATION IN SUPPORT OF AN APPLICATION FOR A
AN INSURANCE LICENCE IN ANGUILLA**

Details required from each applicant or, if incorporated, each shareholder, holding twenty-five percent or more of the applicant's issued share capital, and each director of an applicant company, or partner, if a partnership, and comptroller, if not a director, and such other persons as the Commission may require.

1. Full name

2. Former name (if different from name given above).

3. Date and place of birth

4. Nationality (if naturalised attach a copy of the naturalisation certificate, and state former nationality)

5. Full home address at present time:

6. List home addresses in full for previous five years where different from that given above, and give the related dates:

7. Marital status. If married give full name of spouse including maiden name of wife.

8. Passport particulars (enclose copies of relevant pages).

9. Give full details of your profession or occupation over the past ten years; include the names and addresses of all employers and the nature of your employment; give all relevant dates and state briefly the reasons for changes:

10. Give a list of all companies in which you have held an interest of 25% or more during the past ten years. Give brief particulars of the nature of the business of all such companies.

11. Give details of academic and professional qualifications and date(s) obtained, if not already included in the curriculum vitae.

12. Have you ever been employed in, or had an interest in

(a) A financial services activity, or

(b) (State YES or NO) A gambling activity in any country?

13. In relation to the proposed insurance operation are you acting wholly or partly as a nominee or agent for, or trustee of another person, persons or organisations? (State YES or NO).

If YES, give the name and address of the person, or persons, or organisations and the precise nature of your relationship and/or the arrangement.

14. Give the full details of your financial interest in the proposed insurance operation, and the percentage ownership that this will represent, if applicable.

15. Have you or your spouse ever been declared bankrupt or been the subject of a bankruptcy petition, or ever received a judgement against you in a civil court? (State YES or NO).

If YES give full details.

16. Has any company or firm of which you or your spouse was a partner, director or officer been the subject of a winding up petition? (State YES or NO).

17. Have you ever applied for a financial services licence in any other jurisdiction? (State YES or NO).

If YES state type of account, name of establishment, location and period held and where granted.

18. Have you ever been refused a financial services licence or had an interest in any group which has been refused a license or related finding of suitability? State YES or NO).

If YES to either of the above, state where, when and for what reason.

19. Have you ever appeared before any licensing agency or similar authority for any reason whatsoever? For example, as a witness. (State YES or NO).

If YES provide details.

20. Have you ever been barred from acting as a director? (State YES or NO).

If YES provide details

21. Have you as an individual, member of a partnership, or owner, director or officer of a corporation, ever been a party to a lawsuit as either a plaintiff, or defendant as a result of misconduct? (State YES or NO).

If YES give details below: List all cases without exception, including bankruptcies:

Plaintiff/Defendant

Court and Case Number

Location

Result

22. Have you ever been arrested, detained, charged, indicted or summoned to answer for any criminal offence or violation for any reason whatsoever, regardless of the result of the event, in any country? (Except MINOR traffic offences) (State YES or NO).

If YES give details. List all cases without exception:

Date of Arrest or Detention

Age

Charge

Location

Result

23. Will you participate actively in the management or operation of the proposed insurance operation? (State YES or NO).

If YES give full details.

24. Has your interest in the proposed insurance operation been assigned, pledged or hypothecated to any person, persons, firms, partnerships or companies; or have you entered into any agreement, whereby your interest is to be assigned or pledged or sold either wholly or in part? (State YES or NO).

25. If applicable, have you made any arrangements for persons, firms or companies to advance money, or other equity, to you to assist in financing your investment in the proposed insurance operation? (State YES or NO).

26. Do your assets exceed your liabilities, including contingent liabilities and are likely to remain so for the foreseeable future? (State YES or NO).

27. Give the names, addresses and telephone numbers of three referees, including a financial institution. Referees should not be relatives. They should have been told that the Commission might wish to contact them.

I certify that to the best of my knowledge and belief the information given in this form is complete and correct:

Date:

Signed:

AUTHORISATION TO SEEK ADDITIONAL INFORMATION

I/We hereby authorise you to contact all relevant authorities and authorise said authorities to provide you with whatever information you may request.

(Signed)

Please forward to:

The Financial Services Commission

P. O. Box 1575
The Valley
Anguilla
British West Indies
Tel: 1 264 497 5881
Fax 1 264 497 5872

Schedule 6

(Section 20 (1) (f) of the Act)

Insurance Fees

The fee for a licensing service in Column 1 below is the amount set out opposite in Column 2.

<u>COLUMN 1</u>	<u>COLUMN 2</u>
Service	US\$
Application fees (non-refundable)	
(a) For filing application for a Class 'A' or Class 'B' licence under section 3 (1).	\$500
(b) For filing application for an insurance agent, broker's or manager's licence under section 3 (2).	\$500
(c) For filing application for a sub agent or principal representative (insurance) licence under section 3(2). \$100	
Issue of Licence and Annual Renewal of a Licence fees	
(d) For a Class 'A' licence (section 3 (1) (a))	\$2,500
(e) For a Class 'B' Unrestricted or General licence (sections 3 (1) (b) and (c))	\$2,000
(f) For a Class 'B' Association, Group or Single licence (sections 3 (1) (d) (e) and (f))	\$1,500
(g) For an Insurance Agent, Broker or Manager licence (sections 3 (2) (a) and (b))	\$1,000
(h) For an Insurance sub-agent licence (section 3 (2) (c))	\$250
(i) For a Principal Representative (Insurance) licence (section 3 (2) (e))	\$500

Note: If the issue of a licence under (d) to (i) above is granted on or after July 1 in any year, half of the prescribed licence fee only will be payable.

Date by which Annual Fees must be paid

In accordance with section 6 of the Insurance Act, the annual fee must be paid on or before every 15th of January during the currency of the licence.

If the annual fee is not paid on or before every 15th of January but is paid on or before the 31st of March in the same year, a late payment penalty of 25% of the annual fee will be additionally payable.

If the annual fee is not paid on or before every 31st of March in the same year but is paid on or before the 30th June in the same year, a late payment penalty of 50% of the annual fee will be additionally payable.

If the annual fee is not paid on or before every 30th June in the same year, section 6(3) of the Act will apply.

SCHEDULE 7

(Section 12 of the Act)

**APPLICATION FOR APPROVAL OF ISSUE OR TRANSFER
OF SHARES OR OTHER INTERESTS**

Financial Services Commission
P.O. Box 1575
The Valley
Anguilla

Dear Sir

Re:

We apply herewith for your approval of the issue/transfer/ other dispositions* of shares/ other interests* in the above-mentioned company.

Name and address of allottee or transferee of shares or other interests*

If the interests being issued, transferred or otherwise disposed of are not shares, please give a description thereof*

Number of shares and percentage of total interests to which **application relates**

We attach Schedule 5 of these Regulations (Information in support of an Application) duly completed by any new allottee or transferee.

Yours faithfully

* Complete and/or delete as appropriate.

SCHEDULE 8
(Section 13 of the Act)

APPLICATION FOR APPROVAL OF DIRECTORS

Financial Services Commission
P.O. Box 1575
The Valley
Anguilla

Dear Sir

Re:

We apply herewith for approval for the appointment of

_____ * as a director of this licensed institution

OR to hold the title of

_____ *

We attach herewith Schedule 5 (Information in support of an Application) of these Regulations duly completed with respect to the aforementioned person(s).

Yours faithfully

* Completed and /or delete as appropriate